TOWN OF DAVIE TOWN COUNCIL AGENDA REPORT

TO: Mayor and Councilmembers

FROM/PHONE: Mark A. Kutney, AICP, Development Services Director/(797-1101)

Prepared by: Marcie Oppenheimer Nolan, Planning Supervisor

SUBJECT: Ordinance 1st Reading/quasi-judicial, ZB 9-1-02 Pine Island Corp., 8501 Orange

Drive/Generally located at the northeast corner of the intersection of Pine Island

Road and Orange Drive.

AFFECTED DISTRICT: District 3

TITLE OF AGENDA ITEM:

AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING REZONING PETITION ZB 9-1-02, CHANGING THE CLASSIFICATION OF CERTAIN LANDS WITHIN THE TOWN OF DAVIE FROM B-2, NEIGHBORHOOD BUSINESS DISTRICT TO RM-10, MEDIUM DENSITY RESIDENTIAL 10 DU/ACRE AND RS, RECREATION AND OPEN SPACE; AMENDING THE TOWN ZONING MAP TO COMPLY THEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

REPORT IN BRIEF: The purpose of this rezoning request is to allow development of townhouses on the subject site. The subject site meets the minimum lot area and frontage required by the Land Development Code's conventional development standards for the RM-10, Medium Density Dwelling District. It is believed that the use will not excessively increase traffic beyond what was anticipated by the underlying 10 DU/AC Residential land use plan designation. The proposed rezoning will not create an isolated zoning district and the use can be considered to be in harmony with the general intent and purpose of the code, and will not be detrimental to the public welfare.

A Comprehensive Land Use Plan Amendment requesting that the Commercial land use be changed to Residential 10 DU/acre has been approved by the Local Planning Agency and the Town Council, at first reading. The requested zoning designation is consistent with the proposed underlying land use category.

PREVIOUS ACTIONS: None

CONCURRENCES: On February 12, 2003, on a motion made by Ms. Lee and seconded by Mr. Bender, the Planning and Zoning Board voted to approve the rezoning request (motion carried 5-0).

FISCAL IMPACT: None

RECOMMENDATION(S): Staff finds the subject application complete and suitable for transmittal to Town Council for further consideration.

Attachment(s): Ordinance, Planning Report, Land Use Map, Subject Site, Zoning and Aerial Map, Survey and Legal Description

AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING REZONING PETITION ZB 9-1-02, CHANGING THE CLASSIFICATION OF CERTAIN LANDS WITHIN THE TOWN OF DAVIE FROM B-2, NEIGHBORHOOD BUSINESS DISTRICT TO RM-10, MEDIUM DENSITY RESIDENTIAL 10 DU/ACRE AND RS, RECREATION AND OPEN SPACE; AMENDING THE TOWN ZONING MAP TO COMPLY THEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town Council of the Town of Davie authorized the publication of a notice of a public hearing as required by law, that the classification of certain lands within the Town be changed from B-2, Neighborhood Business District to RM-10, Medium Density Dwelling District and RS, Recreation and Open Space; and

WHEREAS, said notice was given and publication made as required by law, and a public hearing there under was held on the date of the adoption of this ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA.

<u>SECTION 1</u>. That the property herein after described be and the same is hereby rezoned and changed from B-2, Neighborhood Business District to RM-10, Medium Density Dwelling District and RS, Recreation and Open Space:

a. The subject property is described in Exhibit "A" "Legal Description", which is attached hereto and made a part hereof.

SECTION 2. That the zoning map heretofore adopted by the Town Council be and the same is hereby amended to show the property described in Section 1, herein, to RM-10, Medium Density Dwelling District and RS, Recreation and Open Space

<u>SECTION 3</u>. All Ordinances or parts of Ordinances in conflict herewith are to the extent of such conflict hereby repealed.

<u>SECTION 4</u>. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any Court of competent

jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portion of this Ordinance.

SECTION 5. This ordinance shall take effect concurrent with the effective date of the proposed Land Use Plan Amendment (LA 02-9) as being conditional upon Broward County Planning Council recertification and the date a final order is issued by the Department of Community Affairs or Administration Commission determining the adopted small scale amendment in compliance in accordance with Section 163.3187, F.S.

PASSED ON FIRST REA	DING THISDA	Y OF	, 2003		
PASSED ON SECOND R	EADING THIS	DAY OF	, 2003		
		MAYOR/COUNCILMEMBER			
ATTEST:					
TOWN CLERK					
∆PPROVED THIS	DAYOE		2003		

Application: ZB 9-1-02 Revisions: 2/19/03

Exhibit "A" Original Report Date: 2/07/03

TOWN OF DAVIE

Development Services Department Planning and Zoning Division Staff Report and Recommendation

Applicant Information

Owner Agent:

Name: B.G. Pine Island Corp/77 Acre Trust Name: Calvin Giordano & Associates, Inc.

Address: 1000 S. Federal Highway Address: 1800 Eller Drive, Suite 600 City: Boynton Beach, FL 33435 City: Ft. Lauderdale, Fl 33316

Phone: (561) 522-3636 **Phone:** 954-921-7781

Background Information

Date of Notification: February 5, 2003 **Number of Notifications:** 98

Application History: No deferrals have been requested.

Application Request: This request is to rezone a 9.99 acre portion of the parcel to RM-10, Residential Medium

Density District and a 3.54 acre parcel to RS, Recreation and Open Space.

Address/Location: 8501 Orange Drive/Generally located at the northwest

corner of the intersection of Pine Island Road and Orange Drive.

Future Land Use Plan Designation: Commercial

Proposed Land Use Plan Designation: Residential 10 DU/Acre and Commercial

Zoning:B-2, Neighborhood Business District

<u>Proposed Zoning:</u> RM-10, Medium Density Dwelling District and RS, Recreation and Open Space and B-2, Neighborhood Business District.

Existing Use: Vacant

Proposed Use: Townhouse Development, Gas Station and Wetland Mitigation area.

<u>Parcel Size:</u> 13.53 net acres (9.99 acres for townhouses and 3.54 acres for wetland/conservation area)

Surrounding Land Use Plan Designation:

Surrounding Uses:
North: Townhomes, Reflections Residential

South: Orange Drive and C-11 Canal Recreation and Open Space

East: Pine Island Road, then Hess Gas Station Commercial

West: Vacant Land (Parkside Estates) Residential 1 DU/Acre

Surrounding Zoning:

North: RM-10, Medium Density Dwelling District

South: Orange Drive and C-11 Canal (officially not designated)

East: B-3, Planned Business Center District

West: AG, Agricultural District

History

<u>Previous Requests on Same Property:</u> Town Council approved the Pine Island Commercial Plat (Plat Book 167, Page 50) on March 3, 1998, by Resolution 98-78.

Resolution R 99-243 was approved on July 21, 1999, related to the installation of required improvements associated with the Pine Island Commercial Plat.

Two (2) site plans for a shopping center have been submitted to the Town for the subject site. (SP 10-7-98 and SP 1-2-00). These applications were subsequently withdrawn by the applicant due to opposition from the adjacent residents to the proposed location of a shopping center along the rear property line.

A Land Use Plan Amendment to change the land use on the 9.99 acre parcel from Commercial to Residential 10 DU/acre was approved by the Local Planning Agency on January 22, 2003. The Town Council voted to approve on first reading the proposed Amendment on February 5, 2003, motion carried 5-0.

A variance request has been submitted (V 10-1-02) requesting five (5) variances. This request is scheduled for the March 5, 2003 Town Council meeting and the same Planning and Zoning Board meeting as this rezoning request.

In addition, a site plan (SP 10-5-02) has been submitted. This site plan reflects the 100 townhouse units, a service station with fuel pumps, and a wetland mitigation area.

Application Details

The subject site is located at the northwest corner of Pine Island Road and Orange Drive. To the north of the site is an existing townhouse development known as Reflections. To the west is a vacant parcel of land with a land use classification of 1 DU/acre and a zoning category of AG. A site plan for this parcel, Parkside Estates was approved by Town Council on February 5, 2003, for 29 single family one unit per acre estate homes. To the east is an existing gas station, a retail automobile parts store and a proposed charter school (Davie Charter School).

Based upon the requested, and tentatively approved, Land Use Plan designation of Residential 10 DU/acre, the requested rezoning of Parcel A to RM-10 is consistent with the underlying land use. In order to utilize the wetland mitigation area for the required open space for the residential development, staff requested that the applicant rezone to RS, Recreation and Open Space, an allowed zoning district under the Commercial Land Use Category.

- 1. Section 12-307 of the Land Development Code, review for rezonings.
- 2. Section 12-83 of the Land Development Code, Conventional Residential Development Standards, RM-10, Medium Density Dwelling District, requires minimum lot area of 3,500 square feet, minimum lot frontage of 100 feet, setbacks: front 25 feet, side 20 feet, rear 25 feet, and maximum height of 35 feet.
- 3. Section 12-83 of the Land Development Code, Conventional Non-Residential Development Standards, RS, Recreation and Open Space, which requires a minimum lot area of 17,500 square feet.

Comprehensive Plan Considerations

<u>Planning Area:</u> The subject property falls within Planning Area 2. Planning Area 2 includes the westernmost section of the Town north of Orange Drive and south of SW 14 Street, and bound on the west by Interstate 75 and on the east by SW 100 Avenue. The predominant existing and planned land use is single family residential at a density of one dwelling per acre.

Broward County Land Use Plan: The subject site falls within Flexibility Zone 99. The Broward County Land Use Plan has identified this parcel of land as Commercial.

Applicable Goals, Objectives & Policies: Future Land Use Plan, Objective 17: Land Use Compatibility and Community Appearance, Policy 17-7: Adopted land development regulations shall continue to set forth setbacks or separation regulations, landscaping requirements, and minimum open space criteria to enhance living environments.

Staff Analysis

The purpose of this rezoning request is to allow development of townhouses on the subject site. The subject site meets the minimum lot area and frontage required by the Land Development Code's conventional development standards for the RM-10, Medium Density Dwelling District. It is believed that the use will not excessively increase traffic beyond what was anticipated by the underlying 10 DU/AC Residential land use plan designation. The proposed rezoning will not create an isolated zoning district and the use can be considered to be in harmony with the general intent and purpose of the code, and will not be detrimental to the public welfare.

A Comprehensive Land Use Plan Amendment requesting that the Commercial land use be changed to Residential 10 DU/acre has been approved by the Local Planning Agency and the Town Council, at first reading. The requested zoning designation is consistent with the proposed underlying land use category.

The property to the north has a land use classification of Residential 10 DU/acre and a zoning designation of RM-10, Residential Medium Density Dwelling. To the west is property pending development of single family homes at one dwelling unit per acre (Parkside Estates). To the south is Orange Drive, the C-11 canal, Griffin Road and then a shopping center located

in Cooper City. Due to the surrounding land uses, the use of the subject site for residential is compatible with the adjacent residential uses.

Findings of Fact

Rezonings:

Section 12-307(A)(1):

The following findings of facts apply to the rezoning request.

(a) The proposed change **is not** contrary to the adopted comprehensive plan, as amended, or any element or portion thereof;

The applicant has submitted a Land Use Plan Amendment to change the subject parcel to Residential. Based upon approval, at second reading, of the proposed amendment, the proposed zoning designation of RM-10 is consistent with the underlying land use category of Residential 10 DU/acre.

(b) The proposed change **will not** create an isolated zoning district unrelated and incompatible with adjacent and nearby districts;

To the north of the site, the adjacent property owner has a zoning designation of RM-10 and was developed in accordance with the RM-10 zoning district requirements.

(c) Existing zoning district boundaries **are** logically drawn in relation to existing conditions on the property proposed for change;

To the east of the subject site across Pine Island Road, is B-3, Planned Business Center District zoning designation. Pine Island Road is classified on the Broward County Trafficways Plan as a 110 foot arterial. The Comprehensive Plan states, as a policy, that commercial uses shall be located at the intersection of major roadways. In addition, standard planning principals generally provide for more intense commercial uses to be located at major roadway intersections.

(d) The proposed change **is not anticipated to** adversely affect living conditions in the neighborhood;

This residential development will be compatible to the north since it is the same density and use as the existing residential development to the north.

(e) The proposed change **will not** create or excessively increase automobile and vehicular traffic congestion above that which would be anticipated with permitted intensities or densities of the underlying land use plan designation, or otherwise affect public safety;

The approved plat for the project was anticipated to generate more traffic than the proposed residential use.

(f) The proposed change **will not** adversely affect other property values;

The surrounding property owners will be adjacent to uses similar in scale and density to their own residential development.

(g) The proposed change **will not** be a deterrent to the improvement or development of other property in accord with existing regulations;

The proposed change will be developed in accordance with existing land development regulations. Surrounding property will be able to develop in accordance with all exiting land development regulations.

(h) The proposed change **does not** constitute a grant of special privilege to an individual owner as contrasted with the welfare of the general public;

Any property owner may request a rezoning consistent with the underlying land use plan category.

(i) There **are** substantial reasons why the property cannot be used in accord with existing zoning.

The change in land use from Commercial to Residential results in the property not being able to be developed as Commercial.

(j) The proposed zoning designation **may not** be the most appropriate designation to enhance the Town's tax base given the site location relative to the pattern of land use designations established on the future land use plan map, appropriate land use planning practice, and comprehensive plan policies directing land use location.

Due to the change in land use to Residential, the proposed rezoning will allow for the parcel to be developed in a manner consistent with the land use, and hence, be the most appropriate designation to enhance the Town's tax base.

Staff Recommendation

Recommendation: Staff finds the subject application complete and suitable for transmittal to Planning and Zoning Board and Town Council for further consideration.

Planning and Zoning Board Recommendation

On February 12, 2003, on a motion made by Ms. Lee and seconded by Mr. Bender, the Planning and Zoning Board voted to approve the rezoning request (motion carried 5-0).

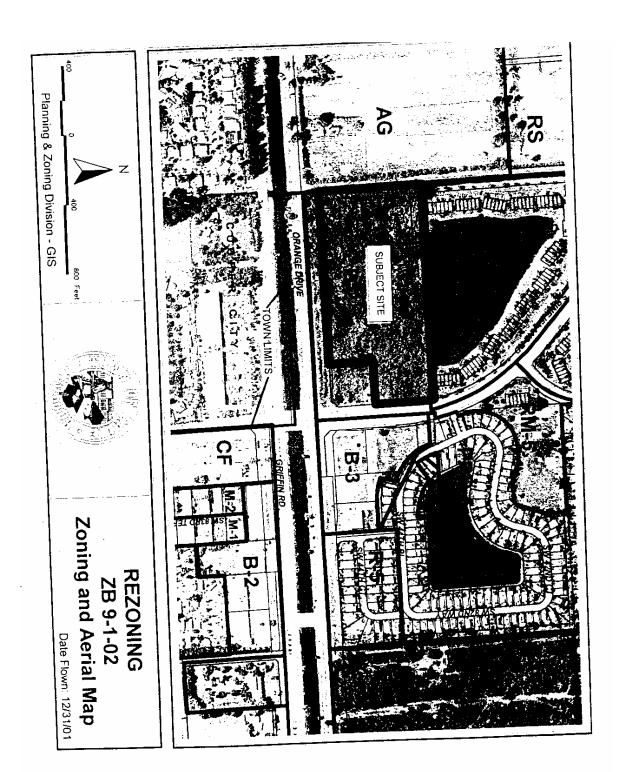
Exhibits

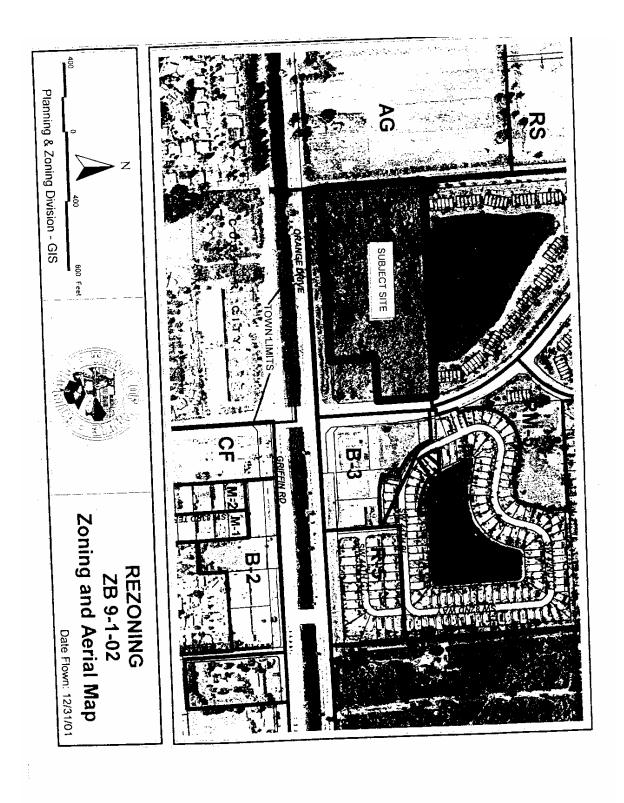
- 1. Future Land Use Map
- 2. Zoning and Aerial Map

Reviewed by: ____

3. Legal Descriptions and Surveys

Prepared by: _____





LAND DESCRIPTION A PORTION OF PARCELS A AND B "PINE ISLAND COMMERCIAL" TOWN OF DAVIE, BROWARD COUNTY, FLORIDA REZONING

A portion of Parcels A and B, "PINE ISLAND COMMERCIAL", according to the plat thereof as recorded in Plat Book 167, Page 50 of the Public Records of Broward County, Florida, being more particularly described as follows:

BEGIN at the Southwest corner of said Parcel 'A';

THENCE North 02°05'55" West, on the West line of said Parcel "A", a distance of 168.58 feet;

THENCE North 87°54'05" East, a distance of 24.23 feet to a point on the arc of a non-tangent curve concave Northeasterly whose radius point bears North 43°22'51" East and a point on the Westerly line of a 32.00 foot Lake Maintenance Easement as shown on said plat "PINE ISLAND COMMERCIAL";

THENCE Southeasterly on the arc of said curve and on said Lake Maintenance Easement, having a radius of 67.00 feet, a central angle of 44°31'55" and an arc distance of 52.07 feet to a point of non-tangency;

THENCE North 88°27'19" East, a distance of 95.47 feet;

THENCE North 83°24'41" East, a distance of 12.44 feet to the beginning of a tangent curve concave Northwesterly and a point on the Easterly line of a Conservation Easement as described in Official Records Book 30470, Page 397, of the Public Records of Broward County, Florida;

THENCE on said Conservation Easement the following four (4) courses and distances;

- 1. Northeasterly on the arc of said curve having a radius of 120.00 feet, a central angle of 28°11'26" and an arc distance of 59.04 feet to a point of tangency;
- 2. North 55°13'15" East, a distance of 105.89 feet to the beginning of a tangent curve concave Northwesterly;
- 3. Northeasterly on the arc of said curve having a radius of 220.00 feet, a central angle of 53°43'19" and an arc distance of 206.28 feet to a point of tangency;
- North 01°29'56" East, a distance of 75.59 feet to a point on said 32.00 foot Lake Maintenance Easement line;

Prepared by:
CALVIN, GIORDANO AND ASSOCIATES, INC.
1800 Eller Drive, Suite 600
Fort Lauderdale, Floride 33316
900402
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Sheet 1 of 5 Cheets

THENCE South 88°30'04" East on said Lake Maintenance Easement line, a distance of 12.00 feet to a point on the arc of a non-tangent curve concave Southwesterly whose radius point bears North 88°30'04" West;

THENCE Northwesterly on the arc of said curve and on said Lake Maintenance Easement line, having a radius of 67.00 feet, a central angle of 27°31'41" and an arc distance of 32.19 feet to a point of non-tangency;

THENCE North 01°27'54" West, a distance of 49.15 feet to a point on the North boundary line of said Parcel "A";

THENCE North 88°32'06" East on said North boundary line, a distance of 749.57 feet to the Northeast corner of said Parcel "A";

THENCE on the East boundary line of said Parcel "A" the following three (3) courses and distances;

- 1. South 02°07'53" East, a distance of 95.13 feet;
- 2. North 87°52'07" East, a distance of 12.00 feet;
- 3. South 02°07'53" East, a distance of 260.80 feet;

THENCE South 87°52'07" West, a distance of 302.03 feet;

THENCE South 02°07'53" East, a distance of 59.28 feet to a point on the North line of a Ingress-Egress Easement as shown on said plat "PINE ISLAND COMMERCIAL";

THENCE South 88°27'19" West on said Ingress-Egress line, a distance of 50.00 feet;

THENCE South 02°07'53" East on said Ingress-Egress line, a distance of 124.00 feet to a point on the South boundary line of said Parcel "A";

THENCE on said South boundary line the following eight (8) courses and distances;

- 1. South 01°32'41" East, a distance of 12.00 feet;
- 2. North 84°42'07" West, a distance of 100.72 feet;
- 3. South 88°27'19" West, a distance of 295.00 feet;

Prepared by:
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Fort Lauderdale, Florida 3,3316
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Sheet 2 of 5 Sheets

- 4. South 01°32'41" East, a distance of 12.00 feet;
- 5. North 84°42'07" West, a distance of 100.72 feet:
- 6. South 88°27'19" West, a distance of 217.00 feet;
- 7. South 01°32'41" East, a distance of 12.00 feet;
- 8. South 88°27'19" West, a distance of 133.43 feet to the **POINT OF BEGINNING**.

Said lands lying in the Town of Davie, Broward County, Florida and containing 435,310 square feet (9.9933 acres) more or less.

NOTES

- 1. Not valid without the signature and original embossed seal of a Florida licensed Professional Surveyor and Mapper.
- 2. Lands described hereon were not abstracted, by the surveyor, for ownership, easements, rights-of-way or other instruments that may appear in the Public Records of said County.
- 3. Bearings shown hereon are relative to the South boundary of Parcel 'A', "PINE ISLAND COMMERCIAL", Plat Book 167, Page 50, Broward County, Florida. Line Bears North 88°27'19" East

A. The description contained herein and the attached sketch, do not represent a field Boundary Survey.

CALVIN, GIORDANO AND ASSOCIATES, INC.

Robert W. Jackson Jr.

Professional Surveyor and Mapper

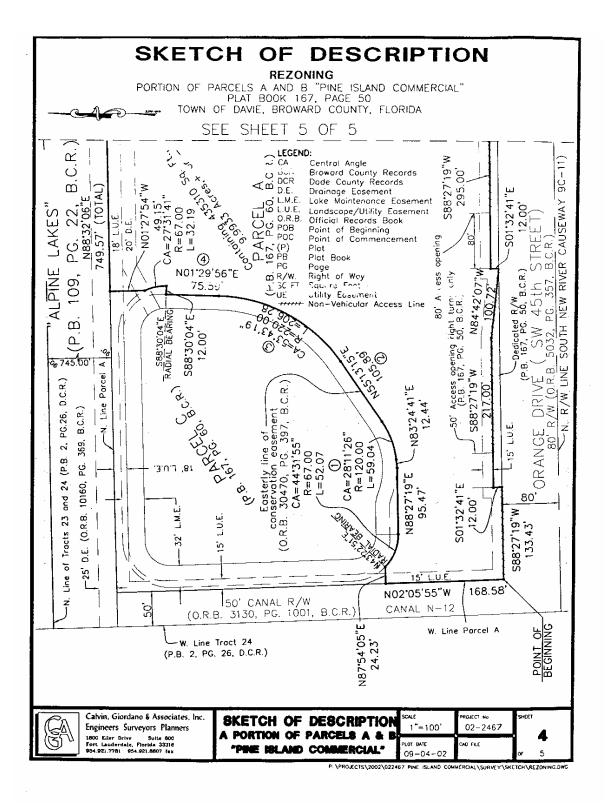
Florida Registration Number LS 4158

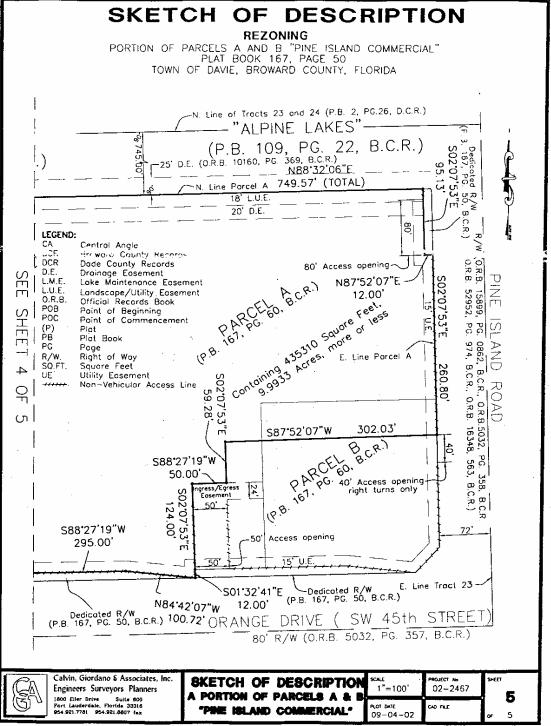
Prepared by: CALVIN, GIORDANO AND ASSOCIATES, 1800 FBrt Drive Suite 600

1800 Eller Drive, Suite 600 Fort Lauderdale, Florida 33316 09/04/02

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Sheet 3 of 5 Sheets





LAND DESCRIPTION A PORTION OF PARCEL A AND ALL OF PARCEL C "PINE ISLAND COMMERCIAL" TOWN OF DAVIE, BROWARD COUNTY, FLORIDA REZONING -CONSERVATION AREA

A portion of Parcel A and all of Parcel C, "PINE ISLAND COMMERCIAL", according to the plat thereof as recorded in Plat Book 167, Page 50 of the Public Records of Broward County, Florida, more particularly described as follows:

COMMENCE at the Southwest comer of said Parcel A;

THENCE North 02°05'55" West, on the West line of said Parcel "A", a distance of 168.58 feet to the POINT OF BEGINNING;

THENCE continue North 02°05'55" West on said West line of Parcel A, a distance of 387.24 feet to the Northwest corner of said Parcel A;

THENCE North 88°32'06" East on the North line of said Parcel A, a distance of 435.73 feet;

THENCE South 01°27'54" East, a distance of 49.15 feet to a point on the Easterly line of 32.00 foot Lake Maintenance Easement as shown on said PINE ISLAND COMMERCIAL, said point being located on the arc of a non tangent curve concave to the West, a radial line through said point bears North 63°58'15" East:

THENCE Southerly on said Easterly line of a 32.00 foot Lake Maintenance Easement and on the arc of said curve having a radius of 67.00 feet, through a central angle of 27°31'41", an arc distance of 32.19 feet to a point of non tangency;

THENCE North 88°30'04" West on the Southerly line of said 32.00 foot Lake Maintenance Easement, a distance of 12.00 feet to the intersection with the Easterly line of a Conservation Easement as described in Official Records Book 30470, Page 397 of the Public Records of Broward County, Florida;

THENCE on said Easterly line of a Conservation Easement the following five (5) courses and distances;

- South 01°29'56" West, a distance of 75.59 feet, to the beginning of tangent curve concave to the Northwest;
- Southwesterly on the arc of said curve having a radius of 220.00 feet, through a central angle of 53°43'19", an arc distance of 206.28 feet to a point of tangency;

Prepared by.

CALVIN, GICEDAND AND ASSOCIATES, INC.

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- 3. South 55°13'15" West, a distance of 105.89 feet to the beginning of tangent curve concave to the North:
- 4. Westerly on the arc of said curve having a radius of 120.00 feet, through a central angle of 28°11'26", an arc distance of 59.04 feet to a point of tangency,
- South 83°24'41" West, a distance of 12.44 feet;

THENCE South 88°27'19" West, a distance of 95.47 feet to a point on the arc of a non tangent curve concave to the North, a radial line through said point bears South 01°09'04" East;

THENCE Westerly on the arc of said curve having a radius of 67.00 feet, through a central angle of 44°31'55", an arc distance of 52.07 feet to a point of non tangency;

THENCE South 87°54'05" West, a distance of 24.23 feet to the POINT OF BEGINNING;

Said lands lying in the Town of Davic, Broward County, Florida and containing 154,493 square feet (3.5467 acres) more or less.

NOTES:

- 1. Not valid without the signature and original embossed seal of a Florida licensed Professional Surveyor and Mapper.
- 2. Lands described hereon were not abstracted, by the surveyor, for ownership, easements, rights-of-way or other instruments that may appear in the Public Records of Broward County.
- 3. Bearings shown hereon are relative to the South boundary of Parcel 'A', "PINE ISLAND COMMERCIAL", Plat Book 167, Page 50, Broward County, Florida. Line Bears North 88°27'19" East
- 4. The description contained herein and the attached sketch, do not represent a field Boundary Survey.

\$80CLATES, INC. GIORDANO AND

Gregory I. Clerobats
Professional Surveyor and Mapper Florida Registration Number LS 4158

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Sheet 2 of 3 Sheets

